

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: ZOSTAVAX (ZOSTER VACCINE
LIVE) PRODUCTS LIABILITY
LITIGATION

MDL No. 2848
Civil Action No. 2:18-md-02848-HB

THIS DOCUMENT RELATES TO:

Loretta Abbo v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20200-HB

Sylvia Anderson v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20184-HB

John Andrea v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20185-HB

Joseph Anemone v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20186-HB

Linda Arch v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20126-HB

Inez Archie v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20159-HB

Deborah Augenti v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20160-HB

Esther Bader v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20187-HB

THIS DOCUMENT RELATES TO:

John Barrett v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20146-HB

Jerome Berkowitz v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20188-HB

Joseph Bernet v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20189-HB

Irwin Binder v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20190-HB

Diane Bonizzi v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20192-HB

Sally Boon v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20137-HB

Patricia Breault, Individually and as Executor of the Estate of Shirley Breault, v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20198-HB

Teresa Brumbaugh v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20147-HB

Cecil and Peggy Campbell v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20162-HB

Rosemarie Case v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20191-HB

Sylvane Chiarelli v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20245-HB

Mary Jayne Clark v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20193-HB

Monique Cochran v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20163-HB

Robert J. Coffey v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20131-HB

Eleanor Cohen v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20246-HB

Alicia D. Colon v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20164-HB

Richard Conroy v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20213-HB

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Anthony Cretacci v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20302-HB

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Patricia Cutillo v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20197-HB

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Annamarie Defrancis v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20296-HB

Susan Detrie v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20148-HB

Wayne and Carol Dickerson v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20294-HB

Philip DiGregorio v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20166-HB

Wilbert E. Dixon, Individually and as Proposed Administrator of the Estate of Gail Dixon, v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20149-HB

Elizabeth Durham v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20255-HB

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<i>Joseph Engolia v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20167-HB	<i>F. Joyce Grasby v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20260-HB
<i>Valentina Falco v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20256-HB	<i>Debbie Guerrero v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20261-HB
<i>Adamilta Figueroa-Lerner v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20257-HB	<i>Roland Halle v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20129-HB
<i>Judy Fischer v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20168-HB	<i>Joyce Helman v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20263-HB
<i>Marleen and George Flanders v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20292-HB	<i>Mary Higdon v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20152-HB
<i>David Fontaine v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20216-HB	<i>Helen Hoffman v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20180-HB
<i>Patricia Frazier v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20210-HB	<i>Janette Holmes v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:19-cv-20000-HB
<i>Donald Galloway and Conceita Pittman v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20258-HB	<i>Stephen Hopkins v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20264-HB
<i>Sharon Godwin v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20151-HB	<i>Beth Horowitz v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20207-HB
<i>Marion Graham Jr. v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20133-HB	<i>Maryann Intagliata v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20182-HB
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<i>Mike Jones v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20269-HB	<i>Vernon Lee v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:19-cv-20004-HB
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Garry Schuemann v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20201-HB

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Carolyn Snell v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20132-HB

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Judith Snyder v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20273-HB

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Mary Speigle v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp., No. 2:18-cv-20158-HB

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<i>Laurier Trahan v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20222-HB	<i>Martha Watson v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20136-HB
<i>Palma Treschan v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20143-HB	<i>Janet Welty v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20262-HB
<i>Carole Triplett v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20144-HB	<i>Eron and Vernon West v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20259-HB
<i>Charles and Dorothy Turnbull v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20203-HB	<i>Beatrice Whitener v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20175-HB
<i>Elsa Vega v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20220-HB	<i>Jean Wright v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20181-HB
<i>Anthony Vespa v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20202-HB	<i>Michael Yasso v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20253-HB
<i>Catherine Wade v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20219-HB	<i>Joseph Yepez v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20145-HB
<i>Evelyn Wagner v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20218-HB	<i>Matthew Zarosl, Individually and as Proposed Administrator of the Estate of Barbara Zarosl, v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20194-HB
<i>Betty Warner-Williams v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:19-cv-20017-HB	<i>Felip Zielinski v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20177-HB
<i>Edward Waszak v. Merck & Co., Inc.; Merck Sharp & Dohme Corp.; and McKesson Corp.</i> , No. 2:18-cv-20265-HB	

PRETRIAL ORDER NO. 172

AND NOW, this 2nd day of May, 2019, for the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

(1) The omnibus motion of defendants Merck & Co. Inc. and Merck Sharp & Dohme Corp. to dismiss all claims of fraudulent misrepresentation, fraudulent concealment, negligent misrepresentation, consumer fraud, and violations of state consumer fraud statutes in the above actions is GRANTED with prejudice.

(2) The motions of defendant McKesson Corp. to dismiss the complaints of plaintiffs in each of the above actions are GRANTED with prejudice with respect to the counts described in ¶ 1 of this order.

(3) The motions of defendant McKesson Corp. to dismiss the complaints of plaintiffs in each of the above actions is GRANTED without prejudice with respect to the remaining counts.

(4) The remaining counts are also dismissed as to defendants Merck & Co. Inc. and Merck Sharp & Dohme Corp. without prejudice.

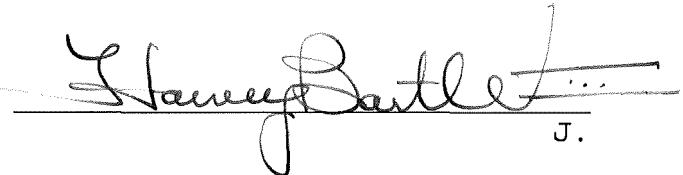
(5) Plaintiffs may file an amended complaint against defendants Merck & Co. Inc., Merck Sharp & Dohme Corp., and McKesson Corp. with respect to the remaining counts within 30

days from the date of this order. Any amended complaint must be limited to 40 pages. See e.g. complaints in Elmegreen v. Merck & Co., Inc. et al, 2:17-cv-2044; Trapp v. Merck & Co., Inc. et al, 2:18-cv-3866.

(6) The actions will be dismissed with prejudice without further notice if the amended complaints are not timely filed.

(7) No attorney at Marc J. Bern & Partners LLP may hereinafter file any complaint or amended complaint in MDL No. 2848 that contains more than 40 pages. The court will dismiss without prejudice on its own motion any such complaint or amended complaint hereinafter filed that exceeds 40 pages.

BY THE COURT:



A handwritten signature in black ink, appearing to read "Sherry Battelle J.", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized "S" at the beginning. The "J." is located at the end of the line.